

SENATOR BEREUTER: I believe that since the bill apparently does not have the emergency clause on it and I was just advised that it does not, it would be 3 months after we conclude our session here.

SENATOR CHAMBERS: Senator Bereuter, on page 245 of LB 38, in lines 13 and 14, it says "this act shall become operative on July 1, 1978." Your committee ceases to exist on July 1, 1978.

SENATOR BEREUTER: No, Senator Chambers, I believe that we have handled that in lines 1 through 3 in the amendment. We're taking...we're having two effective dates for parts of the act. The provisions of the act, the criminal code itself, do not become effective until July 1 but for this particular function the study committee I believe according to the bill drafter, lines 1 through basically 4 and 5 will separate the effective date of the criminal code and the effective date of the study committee.

SENATOR MARVEL: Do you have any other comments Senator Chambers?

SENATOR CHAMBERS: Yes. Thank you, Senator Bereuter. I think the record ought to show that there was a difference of opinion on this particular issue because I'm not as satisfied as Senator Fowler, Senator Cullan, and Senator Bereuter that this is such a wise thing to do. I'm not satisfied that the opinion they have expressed is the correct one. Which goes to show that on matters like this, people can differ. If you have two judges and they disagree on a point of law because that is what they are dealing with, whose opinion will you take or will you take neither and let the issue hang fire and say they couldn't arrive at a decision so it's right back up to the Legislature to decide and the Legislature says, well if the judges couldn't we won't either. Then the judges might proceed with an extra amount of caution realizing what I've said here today, that they are being asked to rule contrary to what Senator Cullan said on pending legislation. The act will not be operative until July 1, 1978. They are supposed to bring in amendments prior to that effective date which would be in January of '78 and present these amendments to the Legislature and try to become a part of the legislative process thereby. When we have an interim study and we bring in recommendations, that is a part of the overall legislative process. This is not a situation where you say the district judges get together and decide that there is a problem with the probate code so they present a position from the judges and offer that. That is the judges as judges functioning independently of the Legislature and they can be accepted or rejected, their amendments that they offer. This is making them an official committee functioning in concert with the Legislature to modify, to elaborate on, or to change totally a bill which though passed by the Legislature has not taken effect until after they have finished their deliberations. I say again, I want to see which judges are going to accept these appointments. Then I want to raise some questions about how ethical and proper it is for judges to take a piece of legislation and try to act on it in this fashion when they are going to be called on to make decisions under that legislation. Maybe it will be hard to get an answer but I want it and I think you are acting hastily on this.

SENATOR MARVEL: During the transition, the Chair did not hear that Senator Bereuter was closing. Since there are no other lights, Senator Bereuter, do you have any other closing remarks? OK, the question is on the Bereuter amendment as amended. All those in favor vote aye, opposed vote no. Voting aye, Mr. Clerk.